

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Petition of AT&T Inc. for Forbearance)	WC Docket No. 07-21
Under 47 U.S.C. § 160(c) from)	
Enforcement of Certain of the)	
Commission's Cost Assignment Rules)	
)	

REPLY

The AdHoc Telecommunications Users Committee ("AdHoc")¹ hereby submits its Reply to comments filed on the above-captioned petition (at&t Petition). The Commission must deny at&t's Petition.

at&t's Petition asks the Commission to forbear from enforcing portions of Part 32, Part 64 Subpart I, Part 36, Part 69, Subparts D and E and other rules that are derivations of or dependent on the foregoing rules, including cost allocation and rate of return reporting requirements in Parts 43 and 65. AdHoc refers to these rules collectively as the cost accounting and allocation rules.

¹ AdHoc is an unincorporated association that represents its members' interests in telecommunication matters pending before the FCC and the courts. Its members are among the nation's largest and most sophisticated corporate buyers of telecommunications services and products. Seventeen of AdHoc's twenty members are Fortune 500 companies, including eight of the Fortune 100. They estimate their combined spend on communications products and services at between two and three billion dollars per year. AdHoc admits no carriers as members and accepts no carrier funding. AdHoc's self-interest is served by avoiding the imposition of unnecessary regulatory constraints on incumbent service providers, such as AT&T. In an effectively competitive market, AdHoc's members do not need regulation to protect their interests and would not advocate it.

Numerous parties have opposed at&t's Petition. Some, like AdHoc, argue that at&t's petition falls well short of the statutory standards for forbearance, and thus the Commission should simply deny the petition.² Others urge the Commission to refer the petition to a Federal – State Joint Board on Separations pointing out that states' interests would be affected if the Commission were to grant the at&t Petition.³ Only the United States Telecom Association (USTA) supports at&t's Petition. This Reply will focus on USTA's comments, rather than reiterating and endorsing arguments used to oppose at&t's Petition.

USTA's comments are long on rhetoric and short on facts and analysis. USTA argues that under price cap regulation the costs derived from the cost accounting and allocation rules do not logically drive at&t's interstate or intrastate rates.⁴ Thus, argues USTA, cost data have no connection to the establishment of just and reasonable rates.⁵

AdHoc, Sprint Nextel and Time Warner Telecom Inc. have, however, all explained that cost data are relevant to setting rates under price caps regulation and to evaluating the efficacy of the Commission's price caps rules. Price caps carriers, such as at&t, are permitted to propose rates above and below existing price cap levels and in such instances cost information would be relevant to

² National Assn of State Utility Consumer Advocates, Comments at 3; New Jersey Public Advocate, Division of Rate Counsel, Comments at 2; Sprint Nextel, Comments at 2-3; Time Warner Telecom, Comments at 2-3.

³ Public Service Commission of Wisconsin, Comments at 1; Texas Office of Public Utility Counsel, Comments at 2.

⁴ USTA, Comments at 5-6

⁵ *Id.* at 6

determining whether to grant such proposals.⁶ Similarly, cost information must be provided with requests for exogenous adjustments to price cap indices.⁷ Additionally, cost information allows parties and the Commission to calculate the earnings of price caps carriers, and thus, is needed in judging whether price cap rules are producing just and reasonable rates.⁸ Without such information, the Commission could not satisfy its responsibilities under sections 1 and 201(b) of the Communications Act, as amended.⁹ USTA has provided no reasoning to counter these points.

USTA next argues that the cost accounting and allocation rules are not needed because, “Every segment of the telecommunications industry is experiencing robust inter- and intra- modal competition.”¹⁰ According to USTA, “[t]he dynamics of competition will ensure the prices and innovative services that consumers want.”¹¹

AdHoc sincerely wishes that the telecommunications market were as competitive as USTA asserts. If such competition existed, AdHoc would gladly support the elimination of cost allocation rules because its members can care for their own interests in effectively competitive markets. Unfortunately the telecommunication market is not as competitive as USTA claims. AdHoc’s Comments demonstrate that neither the interstate special access nor switched

⁶ AdHoc, Opposition at 14; Sprint Nextel, Opposition at 11; Time Warner, Opposition at 5-8

⁷ AdHoc, Opposition at 14-15; Sprint Nextel, Opposition at 10-11

⁸ AdHoc Opposition at 9-12; Sprint Nextel, Opposition at 8-10

⁹ 47 USC §§ 1, 201(b)

¹⁰ USTA, Comments at 9

¹¹ *Id.* at 10

access service markets are competitive.¹² In the absence of effective competition, effective rate regulation is necessary and cost data is a prerequisite to effective rate regulation, even under price caps regulation.

Time Warner Telecom's comments explain that the Commission recently emphasized the importance of cost accounting and allocation rules.¹³ In granting Qwest's petition for forbearance from dominant carrier regulation of its in-region, interstate, interLATA telecommunications services, the Commission explained that Qwest would still be subject to dominant carrier regulation of its access services and that the Commission's accounting and cost allocation rules and related reporting requirements would still apply.¹⁴ Given that the Commission has concluded that these rules and requirements are part of the package of competitive safeguards that address Qwest's exclusionary market power and allowed grant of Qwest's petition, the Commission cannot now conclude rationally that these safeguards are unnecessary within the context of at&t's petition.

Finally, AdHoc addresses the request of some parties that the Commission refer at&t's petition to a Federal-State Joint Board.¹⁵ The parties making these requests have shown that at&t's Petition certainly would affect

¹² AdHoc, Comments at 17. The comments of Sprint Nextel at pages 14-17 also show that the interstate special and switched access service markets are not competitive.

¹³ Time Warner Telecom, Comments at 17-18.

¹⁴ *Qwest Communications International*, FCC 07-13, para.54, released March 9, 2007.

¹⁵ Public Service Commission of Wisconsin, Comments at 1; Texas Office of Public Utility Counsel, Comments at 2. The State Members of Federal-State Joint Board on Separation do not precisely request referral of at&t's Petition, but reason that the Joint Board should be allowed to continue its efforts to reform the existing Separations process – an effort that at&t's Petition would effectively abort. State Members of Federal-State Joint Board on Separation, Comments at 4-6.

State interests. Federal interests, however, exist independent of the States' interests. Given those interests, even if a Joint Board were to recommend grant of at&t's Petition (which would be at least highly unlikely), the Commission should deny the Petition for the reasons set out in the comments opposing at&t's Petition. The Commission should not waste the Joint Board's time and resources. If the Commission nevertheless refers at&t's Petition to a Joint Board, the Commission must be mindful that under section 10(c) of the Communications Act at&t's Petition could be "deemed granted" if referral prevents Commission action within the specified statutory period. Accordingly, if referral is made to a Joint Board, the Commission should require Joint Board action by a date that leaves the Commission ample time to act on at&t's Petition.

In view of the foregoing, the AdHoc Telecommunications Users Committee renews its request that the Commission deny at&t's Petition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James S. Blaszak", written over a horizontal line.

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April 9, 2007

Certificate of Service

I, Dorothy R. Nederman, hereby certify that true and correct copies of the preceding Comments of the Ad Hoc Telecommunications Users Committee were filed electronically this 9th day of April, 2007 via the FCC's ECFS system and by email to:

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April 9, 2007